

## §810.5

Director, Nuclear Transfer and Supplier Policy Division, NN-43, Office of Arms Control and Nonproliferation. Telephone: (202) 586-2331.

(b) Communications also may be delivered to the Department's headquarters at 1000 Independence Avenue, SW., Washington, DC. All clearly marked proprietary information will be given the maximum protection allowed by law.

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39638, July 26, 1993; 65 FR 16127, Mar. 27, 2000]

## §810.5 Interpretations.

A person may request the advice of the Director, Nuclear Transfer and Supplier Policy Division (NN-43), on whether a proposed activity falls outside the scope of this part, is generally authorized under §810.7, or requires specific authorization under §810.8; however, unless authorized by the Secretary of Energy, in writing, no interpretation of the regulations in this part other than a written interpretation by the General Counsel is binding upon the Department. When advice is requested from the Director, Nuclear Transfer and Supplier Policy Division, or a binding, written determination is requested from the General Counsel, a response normally will be made within 30 days and, if this is not feasible, an interim response will explain the delay.

[65 FR 16127, Mar. 27, 2000]

## §810.6 Authorization requirement.

Section 57b of the Atomic Energy Act in pertinent part provides that:

It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided*, That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory

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Commission, the Department of Commerce, and the Department of Defense.

## §810.7 Generally authorized activities.

In accordance with section 57b(2) of the Atomic Energy Act, the Secretary of Energy has determined that the following activities are generally authorized, provided no sensitive nuclear technology is transferred:

(a) Furnishing public information as defined in §810.3;

(b) Furnishing information or assistance to prevent or correct a current or imminent radiological emergency posing a significant danger to the health and safety of the off-site population, provided the Department of Energy is notified in advance and does not object;

(c) Furnishing information or assistance, including through continuing programs, to enhance the operational safety of an existing civilian nuclear power plant in a country listed in §810.8(a) or to prevent, reduce, or correct a danger to the health and safety of the off-site population posed by a civilian nuclear power plant in such a country; provided the Department of Energy is notified in advance by certified mail, return receipt requested, and approves the use of the authorization in writing; the Department will notify the applicant of the status of the request within 30 days from the date of receipt of the notification.

(d) Implementing the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States;

(e) Participation in exchange programs approved by the Department of State in consultation with the Department of Energy;

(f) Participation approved by a U.S. Government agency in IAEA programs, and activities of IAEA employees whose employment was approved by the U.S. Government;

(g) Participation in open meetings as defined in §810.3 that are sponsored by educational, scientific, or technical organizations or institutions;

(h) Otherwise engaging directly or indirectly in the production of SNM outside the United States in ways that:

(1) Do not involve any of the countries listed in §810.8(a); and

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(2) Do not involve production reactors, accelerator-driven subcritical assembly systems, enrichment, reprocessing, fabrication of nuclear fuel containing plutonium, production of heavy water, or research reactors, or test reactors, as described in § 810.8 (c)(1) through (6).

[51 FR 44574, Dec. 10, 1986, as amended at 58 FR 39639, July 26, 1993; 65 FR 16127, Mar. 27, 2000]

### § 810.8 Activities requiring specific authorization.

Unless generally authorized by § 810.7, a person requires specific authorization by the Secretary of Energy before:

(a) Engaging directly or indirectly in the production of special nuclear material in any of the following countries. Countries marked with an asterisk (\*) are non-nuclear-weapon states that do not have full-scope IAEA safeguards agreements in force.

Afghanistan  
Albania  
Algeria  
Andorra\*  
Angola\*  
Armenia  
Azerbaijan\*  
Bahrain\*  
Belarus  
Benin\*  
Botswana\*  
Burkina Faso\*  
Burma (Myanmar)  
Burundi\*  
Cambodia\*  
Cameroon\*  
Cape Verde\*  
Central African Republic\*  
Chad\*  
China, People's Republic of  
Comoros\*  
Congo\* (Zaire)  
Cuba\*  
Djibouti\*  
Equatorial Guinea\*  
Eritrea\*  
Gabon\*  
Georgia\*  
Guinea\*  
Guinea-Bissau\*  
Haiti\*  
India\*  
Iran  
Iraq\*  
Israel\*  
Kazakhstan  
Kenya\*  
Korea, People's Democratic Republic of\*  
Kuwait\*

Kyrgyzstan\*  
Laos\*  
Liberia\*  
Libya  
Macedonia  
Mali\*  
Marshall Islands\*  
Mauritania\*  
Micronesia\*  
Moldova\*  
Mongolia  
Mozambique\*  
Niger\*  
Oman\*  
Pakistan\*  
Palau\*  
Qatar\*  
Russia  
Rwanda\*  
Sao Tome and Principe\*  
Saudi Arabia\*  
Seychelles\*  
Sierra Leone\*  
Somalia\*  
Sudan  
Syria  
Tajikistan\*  
Tanzania\*  
Togo\*  
Turkmenistan\*  
Uganda\*  
Ukraine  
United Arab Emirates\*  
Uzbekistan  
Vanuatu\*  
Vietnam  
Yemen\*  
Yugoslavia

(b) Providing sensitive nuclear technology for an activity in any foreign country.

(c) Engaging in or providing assistance or training in any of the following activities with respect to any foreign country.

(1) Designing production reactors, accelerator-driven subcritical assembly systems, or facilities for the separation of isotopes of source or SNM (enrichment), chemical processing of irradiated SNM (reprocessing), fabrication of nuclear fuel containing plutonium, or the production of heavy water;

(2) Constructing, fabricating, operating, or maintaining such reactors, accelerator-driven subcritical assembly systems, or facilities;

(3) Designing, constructing, fabricating, operating or maintaining components especially designed, modified or adapted for use in such reactors, accelerator-driven subcritical assembly systems, or facilities;